



MONTSERRAT

CHAPTER 17.09

EMBARKATION TAX ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2025

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

EMBARKATION TAX ACT

Act 2 of 1999 .. in force 9 April 1999

Amended by S.R.O.s: 32/1999 .. in force 28 May 1999

34/1999 .. in force 14 June 1999

31/2000 .. in force 1 April 2000

Amended by Acts: 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

6 of 2018 .. in force 1 April 2020 (S.R.O. 42/2019)

Amended by S.R.O. 41/2019 .. in force 23 October 2019

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CHAPTER 17.09

EMBARKATION TAX ACT

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SCHEDULES

CHAPTER 17.09

EMBARKATION TAX ACT

(Acts 2 of 1999, 9 of 2011 and 6 of 2018, S.R.O.s 32/1999, 34/1999, 31/2000 and 41/2019)

AN ACT TO PROVIDE FOR THE IMPOSITION OF AN EMBARKATION TAX ON PERSONS TRAVELLING OUT OF MONTSERAT, FOR THE COLLECTION OF THE TAX SO IMPOSED, AND FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

Commencement

[9 April 1999]

Short title

1. This Act may be cited as the Embarkation Tax Act.

Interpretation

2. For the purposes of this Act—

“**aircraft**” means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon adopted for the transport of persons or goods;

“**airport**” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and designated as such by the Governor acting on the advice of Cabinet; *(Amended by Act 9 of 2011)*

“**carrier**” means—

- (a) any person (whether incorporated or not) transporting passengers by air, or over water on any aircraft or boat to any place outside Montserrat;
- (b) the pilot or other persons in command or control of the transporting aircraft or boat;
- (c) the agent in Montserrat of any person referred to in paragraph (a) hereof; and
- (d) if the person referred to in paragraph (a) hereof is a corporation, every director and manager of that corporation;

“**embarkation tax**” means the tax imposed by section 3;

“**persons in transit**” shall be understood to include any persons proceeding to any destination outside Montserrat including the country from which they came to Montserrat;

“**port of departure**” means an airport or seaport;

“resident” shall mean—

- (a) any person born in Montserrat; or
- (b) any person who holds a Montserrat passport; or
- (c) any person who holds a permanent residence permit;

“sea port” means any area designated as a customs port under section 12 of the Customs (Control and Management) Act.

(Amended by S.R.O 32/1999)

Embarkation tax

3. (1) Subject to subsection (2), the Embarkation tax set out in the Schedule shall be levied on and collected from a person who intends to depart Montserrat from a port of departure. *(Substituted by Act 6 of 2018)*

(2) The Embarkation tax shall not be payable by—

- (a) in transit passengers remaining in Montserrat for a period not exceeding twenty-four hours;
- (b) members of the crew of any aircraft, helicopter or boat transporting passengers;
- (c) officials of airline companies travelling on the business of the airline company;
- (d) a traveller in relation to whom the Minister of Finance is satisfied that by reason of such special circumstances as may be prescribed, the Embarkation tax shall be remitted;
- (e) official guests of the Government of Montserrat;
- (f) children under the age of twelve years;
- (g) Governor, Speaker and Members of the Legislative Assembly when travelling on Government business; *(Amended by Act 9 of 2011)*
- (h) Public officers when travelling on Government business as certified by the Ministry of Finance; *(Amended by Act 9 of 2011)*
- (i) such other travellers or classes of travellers as may be prescribed.

Duty of carrier to collect tax

4. (1) A carrier shall include the Embarkation tax under section 3 in the cost of an aircraft ticket or boat ticket sold to a person to depart Montserrat from a port of departure.

(2) If an aircraft or boat departs from a port of departure in Montserrat during a month, the carrier shall pay the Embarkation tax collected, in respect of a person departing on the aircraft or boat to the Comptroller of Customs and Excise, no later than the tenth of the following month.

(3) If an aircraft or boat operates an intermittent trip from a port of departure in Montserrat to a place outside Montserrat, the carrier shall—

- (a) collect Embarkation tax from a traveller travelling on the aircraft or boat; and
- (b) pay the Embarkation tax collected under paragraph (a) to a customs officer designated by the Comptroller of Customs and Excise,

prior to the departure of the aircraft or boat from a port of departure in Montserrat.

(4) Subsections (1) and (2) do not apply to an intermittent trip under subsection (3).

(5) A carrier shall submit with the Embarkation tax under subsections (2) and (3)—

- (a) the carrier's passenger manifest setting out details of the persons—
 - (i) departing on the aircraft or boat;
 - (ii) in respect of whom the Embarkation tax is collected; and
 - (iii) who are exempted from the payment of the Embarkation tax; and
- (b) any other information the Comptroller of Customs and Excise may require.

(6) A carrier who fails to collect the Embarkation tax which he, or it, is required to collect shall, despite the failure, pay to the Comptroller of Customs and Excise the amount of the Embarkation tax required to be paid.

(7) A carrier who fails to pay to the Comptroller of Customs and Excise the Embarkation tax collected, shall pay an additional sum equivalent to 10% per annum as interest on the unpaid Embarkation tax for every month during which it remains unpaid.

(8) A claim to entitlement to exemption from the Embarkation tax under section 3(2) which cannot be resolved by the carrier shall be referred to the Comptroller of Customs and Excise.

(9) For the purpose of deciding a claim under subsection (8), the Comptroller of Customs and Excise may make inquiries as he thinks fit.

(10) For the purpose of this section, an “**intermittent trip**” is a trip which the Comptroller of Customs and Excise or the Port Authority determines is being offered by a carrier who does not offer transportation from Montserrat at regularly scheduled intervals.

(Substituted by Act 6 of 2018)

Offences

5. (1) Any person who, for the purpose of evading payment by himself or by any other person of the Embarkation tax, knowingly makes any false statement or false representation shall be liable on summary conviction to a fine of \$300 or imprisonment for a term of three months.

(2) Any carrier who fails or neglects to make a return in accordance with the requirements of this Act or any regulations made thereunder or knowingly makes in any such return any false statement or false representation shall be liable on summary conviction to a fine of \$2,000.

(3) Any person who fails, without reasonable cause to furnish to a Comptroller of Customs and Excise any information required by the Comptroller of Customs and Excise for the purpose of section 4(6) shall be liable on summary conviction to a fine of \$300.

(Amended by Act 6 of 2018)

Enforcing payment of tax

6. If the Embarkation tax due and payable under section 4 remains unpaid—

- (a) the full amount of the Embarkation tax may be recovered as a debt due to the Crown in civil proceedings; or
- (b) the customs officer designated by the Comptroller of Customs and Excise may withhold clearance of the aircraft or boat transporting the travellers in respect of whom the tax is payable, if he is not satisfied that adequate arrangements have been made for the payment of the Embarkation tax.

(Substituted by Act 6 of 2018)

Power of court to order payment of tax

7. A court of summary jurisdiction shall, in addition to any penalty it may impose on any person under the provisions of this Act, order the payment to the Comptroller of Customs and Excise of any Embarkation tax due and payable by that person and may order, in default of such payment, imprisonment of that person for a period of three months.

(Amended by Act 6 of 2018)

Refunds

8. (1) Any person who proves to the satisfaction of the Comptroller of Customs and Excise that he has paid, on account of the Embarkation tax, an amount in excess of the amount which he is properly required to pay pursuant to this Act shall be entitled to have the amount so paid in excess refunded, and the Accountant General is hereby authorised to make the refund accordingly.

(Amended by Act 6 of 2018)

(2) No claim for a refund, under this section shall be entertained after the expiration of six months from the date on which payment of the amount in dispute was made.

Regulations

9. (1) The Governor acting on the advice of Cabinet may make regulations to provide for—

- (a) the production to and inspection by such persons as may be prescribed of documents used and records kept by any person for the purpose of determining that the embarkation tax has been collected and accounted for in accordance with this Act or any regulations made thereunder;
- (b) the furnishing to the Comptroller of Customs and Excise or to persons authorised by him of such information and such returns, certificates and other documents as may be prescribed by this Act;
- (c) anything required to be prescribed by this Act;
- (d) any other matter or thing whether similar or not to those above mentioned in respect of which it may be expedient to make regulations to give effect to the purpose of this Act.

(Amended by Acts 9 of 2011 and 6 of 2018)

(2) Until varied or revoked by Regulations made under the provisions of subsection (1), the Regulations contained in the First Schedule to this Act shall be in force.

Amendment of Schedule

10. The Governor acting on the advice of Cabinet may by Order amend the Schedule. *(Amended by Acts 9 of 2011 and 6 of 2018)*

FIRST SCHEDULE*(Section 3)**(Amended by S.R.O. 31/2000 and 41/2019)*

The embarkation tax payable is EC\$25 for each traveller.

(Amended by Act 6 of 2018 and S.R.O. 41/2019)

EMBARKATION TAX EXEMPTION REGULATIONS – SECTION 9

(S.R.O. 32/1999 and Act 9 of 2011)

Commencement

[28 May 1999]

Short title

1. These Regulations may be cited as the Embarkation Tax Exemption Regulations.

Exemption

2. The following persons are exempt from Embarkation Tax—

- (a)* holders of a diplomatic passport;
- (b)* holders of a United Nation “**laissez passer**”;
- (c)* holders of passes issued by the Organization of Eastern Caribbean States;
- (d)* holders of passes issued by the Caricom Secretariat; and
- (e)* members of the Legislative Assembly.

(Amended by Act 9 of 2011)
